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March 4, 2021

Judge Nicholas G. Garaufis
United States Courthouse
Room 1426 S
225 Cadman Plaza East
Brooklyn, NY 11201

RE: ***CASE NO: 2:20-cv-06291***

Dear Judge Garaufis:

I represent Oriska Corporation. I am writing this letter in response to the letter sent to you by Alexander J. Sperber on behalf of Prohibited Transaction Defendant Ira Lipsius and other named defendants in the above action that has been removed to your Court from a state court action in Nassau County that Oriska Corporation was allowed to file its Complaint in Intervention by Judge Libbert by Order dated October 7, 2020 (Doc. 1-2).

The Intervention Complaint was not served but amended as of right pursuant to CPLR §3025 on December 28, 2020. The only defendants that have been served are the Defendant Class named in the Amended Complaint. Oriska Corporation has until March 28, 2021 to serve the named defendants. Accordingly the clients Mr. Sperber represents have not been served.

On December 28, 2020 the Defendant Class represented by the Kernan Professional Group filed its Notice of Removal (Doc. 1) pursuant to 28 U.S.C. §1441(a) and (b) since the original complaint that intervention was granted upon involved \$53 million that was diverted by the defendants that was supposed to fund a 114 Trust under an ERISA plan (Employee Retirement Income Security Act) sponsored by the nursing homes. The beneficiaries of the trust are the employee class defendants. Oriska Corporation sought intervention in subrogation of these beneficiaries and later named the workers as class defendants in the Amended Complaint.

This Court in an Order dated February 18, 2021 adjourned the conference in this matter to a date after March 26, 2021 and the date of April 9, 2021 was agreed upon by the parties. On February 26, 2021 Mr. Sperber disingenuously wrote this Court and Prohibited Transaction Defendant Ira Lipsius submitted a 16-page Memorandum of Law to remand this case to state court. These papers

were submitted in violation of this Court's rules, Orders, and directives. I am more than willing to respond to this Memo of Law and clearly show the Court that Mr. Lipsius has no standing and that the case involves a Federal question for removal. However, I'm hesitant to respond without the Court's permission since Mr. Lipsius's Memo of Law was improperly served in the first place. If it meets with the Court's approval I can submit an answering memorandum of law prior to our conference.

Respectfully,

s/ Frank Policelli
